REMARKS

The Office Action mailed December 5, 2003 has been received and the Examiner's comments carefully reviewed. Claims 1, 9, 20, 21, and 22 have been amended. The amendments are supported in the specification at page 7, lines 16-27; page 9, lines 1-7, and page 11, lines 1-8; and, FIGS. 2, 3. and 8. No new subject matter has been added. Claims 1-22 are currently pending in this application. Applicant respectfully submits that the pending claims are in condition for allowance.

I. Information Disclosure Statements

The Office Action included an objection to an information disclosure statement on the grounds that the information disclosure statement failed to include a concise explanation of the relevance of the non-English references. A copy of the information disclosure statement sent on June 7, 2001 and an English abstract of the EP reference listed therein are enclosed herewith. A translation of the Swiss patent will be provided to the Examiner shortly.

II. Substantive Rejections

A. Indefiniteness

Claims 21 and 22 were rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out what Applicant regards as the invention. Claims 21 and 22 were amended to correct the typographical error referenced in the Office Action. In view of the above amendments, withdrawal of the section 112 rejection is respectfully requested.

B. Anticipation

Claims 1-11, 13-15, and 18-20 were rejected under 35 U.S.C. § 102(e) as being anticipated by Ruppert et al. (U.S. 2,236,969) ("Ruppert"). This rejection is traversed. Nonetheless, claims 1, 9, and 20 have been amended to advance this application to allowance. As noted above, these amendments are fully supported in the specification and therefore add no new matter.

1. Claim 1

Claim 1 recites a programmable headset that includes, among other things, a headband, an electronic housing having an infrared light detector therein, and a headset signal processing device having a receiver and a transmitter operably connected thereto, a control device for switching a frequency of the transmitter between at least a first frequency and a second frequency, thereby enabling the headset to switch between communicating with a first lane location using the first frequency and a second lane location using the second frequency.

The present invention is a headset device that is particularly useful in a fast service restaurant, although its use is not limited to that context. Many busy fast service restaurants have two drive-up ordering locations outside of the restaurant, which may be referred to as Lane A and Lane B. The headset according to claim 1 includes a user-driven control device, such as a lane button, that allows the user to switch between communicating with Lane A and Lane B. See Application at page 7, lines 16-27, page 9, lines 1-7, and page 11, lines 1-8.

Ruppert fails to disclose a programmable headset that includes a control device for switching a frequency of the transmitter between at least a first frequency and a second frequency, thereby enabling the headset to switch between communicating with a first lane location using the first frequency and a second lane location using the second frequency. Instead, Ruppert discloses a telephone headset that does not allow the user to choose to communicate with a first lane location and a second lane location or designate communications via any particular radio frequencies.

The user driven controls disclosed in Ruppert include volume control buttons (52, 54), voice activated telephone and operations, and the ability to either activate or deactivate IR and RF capabilities. See FIGS. 1, 6-9; column 5, line 46-47; column 8, lines 12-column 10, line 48, respectively. Though Ruppert may disclose the ability to activate and deactivate RF communication, it nonetheless does not disclose a device in which the user can chose particular frequencies on which to transmit and receive information where the frequencies correspond to locations to which the headset can communicate.

Accordingly, Ruppert fails to anticipate claim 1. Claims 2-8 depend on and further limit claim 1; therefore, for at least the same reasons, they are also not anticipated.

2. Claim 9

Claim 9 recites a headset that includes, among other things, a headband, a headset signal processing device that has a control device for switching a frequency of the transmitter between at least a first frequency and a second frequency, thereby enabling the headset to switch between communicating with a first lane location using the first frequency and a second lane location using the second frequency.

Ruppert fails to disclose a headset that has a control device for switching a frequency of the transmitter between at least a first frequency and a second frequency, thereby enabling the headset to switch between communicating with a first lane location using the first frequency and a second lane location using the second frequency. As discussed above, the device disclosed in Ruppert operates as a telephone at frequencies that are not user designated. Accordingly, claim 9 is not anticipated. Claims 10-19 depend on and further limit claim 9; therefore, for at least the same reasons, they are also not anticipated.

3. Claim 20

Analogously, claim 20 recites a method of programming a headset including, among other things, a headset that comprises a control device for switching a frequency of the transmitter between at least a first frequency and a second frequency, thereby enabling the headset to switch between communicating with a first lane location using the first frequency and a second lane location using the second frequency. As discussed above, Ruppert fails to disclose such features. Therefore, claim 20 is not anticipated. Claims 21-22 depend on and further limit claim 20; therefore, for at least the same reasons, they are also not anticipated.

C. Obviousness

Claim 12 was rejected under 35 U.S.C. § 103(a) as being obvious over Ruppert, and in further view of the known prior art. Additionally, claims 16 and 17 were rejected under 35 U.S.C. § 103(a) as being obvious over Ruppert, and in further view of Menadier et al. (U.S. 5,027,433) ("Menadier").

Claim 12 depends on and further limits claim 9. As discussed above, Ruppert does not disclose or suggest a headset that includes a control device for switching a frequency of the transmitter between at least a first frequency and a second frequency, thereby enabling the headset to switch between communicating with a first lane location using the first frequency and

a second lane location using the second frequency. Therefore, claim 9 is not obvious over Ruppert. Since the prior art also fails to disclose the subject matter of claim 9, no combination of the prior art and Ruppert would result in the subject matter of claim 9. Accordingly, claim 12 is not obvious over Ruppert in view of the prior art.

Similarly, claims 16 and 17 depend on and further limit claim 9. Since Menadier also fails to disclose a control device for switching a frequency of the transmitter between at least a first frequency and a second frequency, thereby enabling the headset to switch between communicating with a first lane location using the first frequency and a second lane location using the second frequency, no combination of Menadier and Ruppert would result in the claimed subject matter. Moreover, neither reference includes a suggestion or motivation to combine itself with the other. Accordingly, claims 16, and 17 are not obvious over Ruppert in view of the prior art or Menadier.

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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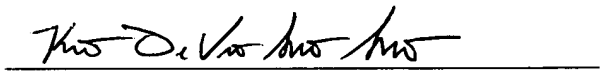

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